IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FIRST DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 447 of 2004

Between:

T. Krishnaiah S/o. Late Ramaiah
R/o. 2nd Street, Lakeview Colony, Podakuru Road, Nellore.

..... PETITIONER

AND

Principal, Zonal Staff Training College, APSRTC, Kakuturu, Post & Mandal Venkatachalam, Nellore Dist.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to to issue an appropriate Writ, order or direction, particularly one in the nature of Writ of Mandamus, declaring the action of the respondent in calling the fresh tenders on 15.12.2003 and opened the tenders on 29.12.2003 is arbitrary and illegal pending continuation of petitioner contract dated 25.7.2003 further to declare that the opening of fresh tenders on 29.12.2003 as illegal, improper and set aside the same.

Counsel for the Petitioner:MR.G.NARASIMHA

Counsel for the Respondent: MR. R.MANMADHA REDDY, SC for APSRTC

The Court made the following :

ORDER:-

Heard both the learned counsel and at their request, the writ petition itself is taken up for disposal at the stage of Interlocutory Application.

Petitioner herein who is a holder of subsisting agreement with the respondent herein for running canteen in the College, filed this writ petition, inter alia, seeking writ of Mandamus challenging the action of the respondent in calling fresh tenders on 15-12-2003 and opening the tenders on 29-12-2003 as arbitrary and illegal when his contract is subsisting.

This Court granted orders of status quo on 7-1-2004.

The case of the petitioner is that in terms of tender notification, he was declared as successful tenderer and ultimately an agreement was entered into on 25-7-2003. However, though the respondent here promised to show turn out in the business, he sustained loss in the business and therefore, he filed a representation before the respondent on 13-10-2003 showing the income, expenditure and profit/loss gained/incurred and requested to enhance the rates of items served in the canteen. Though the said representation still pending consideration, without disposing of the same, the respondent has given publication in Eenadu daily dated 15-12-2003 calling upon fresh tenders for the same canteen run by the petitioner and the agreement is valid up to 3-8-2005. Hence this writ petition.

Having considered the submissions made on either side and on perusal of the material on record, it is seen that there is no dispute in regard to the fact that the petitioner was given contract for running the canteen and the agreement was entered into on 25-7-2003 and thereupon, he is running the canteen. It is only due to loss sustained in the business, he filed a representation dated 13-10-2003 before the respondent with certain proposals, including enhancement of rates and failing which the petitioner will prepare the cancel the agreement. No orders have been passed by the respondent on the representation of the petitioner. Having regard to the same, it is not open to the respondent to call for fresh tenders when the agreement of the petitioner to run the canteen is still valid up to 3-8-2005.

Accordingly, this writ petition is allowed and the impugned action of the respondent in calling fresh tenders on 15-12-2003 and opening of the same on 29-12-2003 is set aside. It is open to the respondent to pass orders on the representation of the petitioner on its own merits in accordance with law after giving notice and opportunity to the petitioner. No costs.

1—11—2004.

Stv/-

To

1. Principal, Zonal Staff Training College, APSRTC, Kakuturu, Post & Mandal Venkatachalam, Nellore Dist.

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